

PUBLIC WORKS DEPARTMENT

(PUBLIC HEALTH BRANCH)

The 15th September, 1977

No. 9934-PWIII(D)-77/28912.—In partial modification of Haryana Government Notification bearing No. 9224-PWIII (D)-77/25047, dated the 12th August, 1977, the Governor of Haryana in consultation with the Haryana Public Service Commission, is pleased to order that the suitability of Sectional Officers noted in the Notification, dated the 12th August, 1977, for appointment by promotion to the Post of the Sub-Divisional Engineer (Civil) in the Public Works Department (Public Health Branch), Haryana, will not be without prejudice to the claim of Shri Dharam Vir, Sectional Officer.

V. P. JOHAR.

Financial Commr. and Secy.

PUBLIC WORKS DEPARTMENT

BUILDINGS AND ROADS BRANCH

The 21st September, 1977

No. 73.—Whereas the Governor of Haryana is satisfied that land specified below is needed by Government at public expense for public purposes, namely, constructing P.W.D. (B.&R.) Store Bld. for Construction Division No. I, Sonapat in District Sonapat, it is hereby declared that the land described in the specification below is required for the aforesaid purpose.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7 of the said Act, the Land Acquisition Collector, Public Works Department, Buildings and Roads Branch, Haryana, Ambala Cantt, is hereby directed to take orders for the acquisition of the said land.

Plans of the land may be inspected in the offices of the Land Acquisition Collector, Haryana, Public Works Department, Buildings and Roads Branch, Ambala Cantt., and Executive Engineer, Construction Division, No. I, Sonapat.

SPECIFICATION

District	Tehsil	Locality	Area in acres	Remarks
Sonapat	Sonapat	Garhi Barahamanan	4.94	Details of Khasra No. 48 1/2/2, 2 2/2, 10 12, 11, 9/1, 9 2, 9/3, 27.

(Sd.)

Superintending Engineer,
Jind Circle, P.W.D., B.&R. Branch, Jind.

LABOUR DEPARTMENT

The 21st September, 1977

No. 9427-3 Lab-77/25375.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Precision Stampings Plot No. 106, Sector 24, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 52 of 1975

between

SHRI M.R. RANA WORKMAN AND THE MANAGEMENT OF M'S PRECISION STAMPINGS,
PLOT No. 106, SECTOR 24, FARIDABAD

Present—

Shri Ram Murti Sharma, for the workman.
Shri S.L. Gupta for the management.

AWARD

By order No. ID/FD/75/12838, dated 7th March, 1975, the Governor of Haryana, referred the following dispute between the management of M/s Precision Stampings, Plot No. 106, Sector 24, Faridabad and its workman Shri H.R. Rana to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

“Whether the termination of services of Shri H.R. Rana was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 13th February, 1976 :—

- (1) Whether it was necessary for the workman to raise a demand directly on the management and for the later to reject it before the matter was taken to the Conciliation Officer, in order to constitute an industrial dispute ?
- (2) If yes, if such a course was adopted by the workman ?
- (3) Whether the termination of services of Shri H.R. Rana was justified and in order ? If not, to what relief is he entitled ?

The case was set for the evidence of the management. The management examined one Shri S.C. Gupta their Manager as M.W. 1 who stated that the workman concerned was appointed on 20th July, 1973 on probation for six months. The appointment letter dated 23rd December, 1973 Ex. M-1 was given to the workman concerned stating that he was appointed as a probationer for a period of six months from 20th July, 1973 as a Die Fitter at the rate of Rs 18.25 per day. He tendered in evidence a statement Ex. M-2 showing the attendance of the workman concerned and also tendered Ex. M-3 a report made by Shri M.K. Goesh against the workman concerned. He proved letter of termination of service Ex. M-4. In cross examination he admitted that a copy of statement Exhibit M-2 and of the report Exhibit M-3 were never supplied to the workman. He further stated that letter of appointment was given to the workman on demand made by him. He further admitted that the wage of the workman concerned were increased by 50 paise per day after the expiry of the probation period of six months. He further admitted that the management did not sent the amount mentioned in Ex. M-4 by money order to the workman concerned although he stated that the workman was offered this amount.

The management terminated the services of the workman concerned by their letter dated 10th March, 1974. Ex. M-3 is a report against the workman stating that he spoiled some work pieces and for requesting the Director Incharge of the management not to confirm the workman concerned. By this letter the officer reporting against the workman concerned also suggested that the management may consider a new face for that post. This report is dated 28th February, 1974. The management also examined Shri M. K. Goesh their Ex-Forman as M.W.2 who stated that the work of the workman concerned was unsatisfactory and proved Exhibit M-3. This witness admitted in cross examination that the workman concerned was highly paid. He also stated that the workman concerned got promotion i.e., increment. This witness in cross-examination admitted that he did not give in writing to the workman or to any other authority that his work was unsatisfactory. He further admitted that after the expiry of probation period of six months the management granted promotion at the rate of Rs 0.50 per day to the workman concerned. As far as the nature of unsatisfactory work was concerned, this witness stated in answer to a court question that he used to spoil time and good work and his performance was not to be mark.

I have considered all the evidence, documentary as well as oral. M.W. 2,—vide Exhibit M-3 has stated that the workman concerned spoilt about 10 work pieces whereas to a court question he has stated that the workman concerned used to spoil time and good work.

Spoiling time is different from spoiling work pieces which have been named by him in his report Ex. M-3. The nature of unsatisfactory work was never given to the workman concerned. The management closed their case. The workman examined himself as W.W. 1 who stated that on demand he was given appointment letter after a period of 5 months of his appointment. He stated that he was given increment after the expiry of probation period. He further stated that he was never warned on any account. He further stated that he was elected Secretary of the trade union and organised the worker and therefore the management terminated his service. He organised union in March, 1974 for the sole aim of getting minimum wages and that was not paid to the workman, even his dues were not paid by the workman concerned and that he has not been employed gainfully during this period anywhere. The management even did not cross examine this witness on the point that his service were not terminated on account of trade union activities. The workman concerned also examined one Shri Ram Murti Sharma Secretary of Engineering Workers Union who stated that the union was organised in March, 1973 and the workman concerned was elected General Secretary of the Mill Committee. In cross examination he further stated that all the members of the union had been expelled by the management and they have left this place. The workman closed his case.

I have also gone through the evidence of the workman concerned. It is proved even in the admission of the management that the workman concerned got promotion or increment after the expiry of probation period of six months. The workman concerned was appointed on 20th July, 1973. His probation period expired on 20th January, 1974. His services were terminated on 10th March, 1974. He got increment or promotion from the management between the period from 20th January, 1974 to 10th March, 1974 i.e., during one month and 20 days. It does not stand to reason that the work of the workman concerned was unsatisfactory, otherwise he could not have been granted promotion or increment. The report against the workman concerned is dated 28th February, 1974. It seems that the trade union was organised in the 1st week of March. It seems that Ex. M-1 was written just at the time when the preparations for organising the trade union was started. Even the copy of Exhibit M-3 was not given to the workman concerned, it was kept a secret document between the officer reporting and the Director Incharge of the management. It is not understood as to why the explanation of the workman concerned was not sought. Again there is Exhibit M-5 dated 4th March, 1974 which describes a different charge that the workman concerned left the factory at 4 or 4.30 P. M. for filing one accident report but the workman did not inform him regarding the accident and gate pass and the officer reporting was not sure of accident. Exhibit M-5 speaks that this is one of his tricks and habits of the workman concerned at the week end but there is no mention of such a charge in the evidence of the witness M.W. 2. This seems to be a concoction in the first week of March, 1974 when the trade union was being organised even the workman concerned was not asked to explain this nor he was given copy of this report. The charge of unsatisfactory work against the workman concerned is not proved and does not stand to reason. It is evident that the work of the workman concerned was satisfactory in view of the fact that he was granted promotion or increment after the expiry of period of probation of six months. Thereafter he remained in service for 1 month and 20 days only. The charges levelled against him are of the time when the trade union was being organised or was under preparations for organising. In the circumstances it is rational that the workman concerned was victimised for trade union activities and without any fault of his. I have seen the appointment letter Exhibit M-1. In it nowhere it is mentioned that the workman concerned can be dismissed from service without assigning any reason. It says only that the workman concerned was appointed on 20th July, 1973 on probation for six months and that all other terms and conditions will be as per the prevailing rules. The prevailing rules have not been proved by the management. According to this letter the probation period expired on 20th January, 1974. This is in the evidence of the management M.W. 1 that the probation period of the workman concerned was not extended by them. M.W. 1 has stated that no letter was issued to the workman extending the period for promotion. This leads to the conclusion that the period of probation of the workman concerned expired on 20th January, 1974, the result was that he had to be deemed to have been confirmed after 20th January, 1974.

The only point before me for consideration is whether a probationer can be dismissed without assigning any reason. The point striking to my mind was that the workman concerned had service at his credit for 7 months and 20 days only. It was also to be considered whether the workman concerned could be dismissed from service without assigning any reason as he had the services at his credit for a very short period of 7 months and 20 days although his probation period expired on completion of six months of his service.

The representative of the workman cited before me, a ruling of the Hon'ble the Supreme Court reported in LLJ-II-1973 page 454. I have considered this ruling. Their Lordships in this ruling up held that Award of the Tribunal holding that the termination of services even of the probationer workman was not justified without assigning any reason and setting aside the termination as capricious arbitrary or unnecessary harassment. I am bound by this ruling. Their Lordship in this case dismissed the appeal of the appellant.

As the management did not assign any reason for termination of services of the workman concerned and the charges levelled by them have been found unsubstantiated having been levelled at a period when the trade union was being organised by the workman concerned for getting Minimum Wages, I am of the opinion that the termination of services of the workman concerned was not justified. I, therefore, give my award as follows :—

That the termination of services of the workman concerned Shri N. R. Rana was not justified nor in order. As far as relief is concerned, Shri Rana himself had stated that he was earning Rs 50-60 or 100 per month during the period of his illegal dismissal for doing some technical work. He has further stated that he has not been employed gainfully regularly elsewhere. But his admission by doing technical work performed by him at his house, although not regular, he might have earned about Rs 100 per month. I, therefore, am of the view that if the workman concerned is awarded half back wages, he shall get justice. I, therefore, grant relief of half back wages with his right to reinstatement by the management with continuity of service.

Dated the 19th August, 1977

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.